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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,042	12/09/2003	Matthew Bullock	10.065.023	3001

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KILE GOEKJIAN REED & MCMANUS
1200 NEW HAMPSHIRE AVE, NW
SUITE 570
WASHINGTON, DC 20036

EXAMINER	
GORDON, STEPHEN T	
ART UNIT	**PAPER NUMBER**
3612	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/730,042	BULLOCK, MATTHEW	
	Examiner	Art Unit	
	Stephen Gordon	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19 and 23-68* is/are pending in the application.

4a) Of the above claim(s) *32 and 34-68* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19, 23-31, and 33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 December 2003 and 12 July 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7-22-05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. It should be noted, during an interview with attorneys for applicant on 8-22-05 (see interview summary of record), applicant's attorneys indicated the instant amendment was forthcoming and that such amendment contained additional claims which were discussed as being of substantially similar content to the previously examined claims. The examiner agreed that if upon further review the newly submitted claims were substantially the same as the examined claims, such claims would be reviewed on the merits in the next office action. Upon further and more detailed review of the instant amendment, taking into account the numerous references cited on the newly submitted IDS, the numerous new claims of varying scope now submitted, and the numerous potential double patenting determinations required based on the many previously filed related cases, the following requirement is deemed warranted.

2. Newly submitted claims 32 and 34-68 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: see detailed requirement immediately below.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 32 and 34-68 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-19,23-31 and 33, drawn to a combination strip with multiple strand groups, classified in class 410, subclass 97+.

II. New claims 32 and 34-57, drawn to a subcombination strip, classified in class 410, subclass 97+.

III. New claims 58-68, drawn to a subcombination strip, classified in class 410, subclass 97+.

The inventions are distinct, each from the other because of the following reasons:

4. Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because at least a pliant coating per se is not required. The subcombination has separate utility such as use in a system defining a single stranding/strand layer.

5. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because a first layer of material having first and second edges per se. The subcombination has separate utility such as use in

a system defining a single stranding/strand layer and/or a system not defining first and second edges as defined – e.g. a formed strap loop or closed bag.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. It is requested that applicant cancel non-elected claims 32 and 34-68 in response to this action to facilitate the issue process if the application is ultimately allowed.

8. Claims 7—16 and 29-30, as newly amended/presented, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 as newly presented, line 3 is somewhat confusing, and "said strands of" could be replaced with –strands of said—to correct the claim in this regard as best understood.

Claim 29 as newly presented, line 3 is somewhat confusing, and "said strands of" could be replaced with –strands of said—to correct the claim in this regard as best understood.

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1+ and 23+ are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7+ of copending Application No. 10/730,040. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 7 of the '040 application includes all the features of the instant claim 1 and merely adds features/details – e.g. functional language relating to corrugated walls, multiple transverse strips of the second adhesive layer, and multiple associated release paper strips for the strips of the second adhesive layer. To arrive at the invention recited in instant claim 1, it would have been obvious to one of ordinary skill in the art to merely remove the extra limitations included in claim 7 of the '040 application. Moreover, applicant should note, patenting of both the instant claim 1 and claim 7 of the '040 application would potentially allow applicant unfair extension of monopoly for the overlapping portions of coverage – noting the instant claim 1 is a broader version of claim 7 of the '040 application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (571) 272-6661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

11-12-05

Stephen Gordon
Primary Examiner
Art Unit 3612

stg